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Federal Communications Commission  
Office of the Secretary  
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August 27, 1992

**VIA HAND DELIVERY**

Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Reply Comments of California Payphone  
Association in CC Docket No. 92-77

Dear Ms. Searcy:

Enclosed are an original and ten copies of the Reply Comments of California Payphone Association ("CPA") in the referenced proceeding, submitted herewith for filing and distribution to each of the Commissioners. Once accepted for filing, please file-stamp one of the copies and return it to the messenger from our offices.

Please address any questions or comments to the undersigned counsel.

Very truly yours,

GRAHAM & JAMES

By *Richard L. Goldberg*  
Richard L. Goldberg

Attorneys for  
CALIFORNIA PAYPHONE ASSOCIATION

**Enclosures**

cc: All Commissioners (w/encl.)  
Attached Service List (w/encl.)  
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AUG 27 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION

Federal Communications Commission  
Office of the Secretary

Washington, D.C. 20554

In the Matter of  
BILLED PARTY PREFERENCE  
FOR 0+ INTERLATA CALLS

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CC Docket No. 92-77

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REPLY COMMENTS OF CALIFORNIA PAYPHONE ASSOCIATION

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August 27, 1992

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AUG 27 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
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BILLED PARTY PREFERENCE )  
FOR 0+ INTERLATA CALLS )  
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CC Docket No. 92-77

**REPLY COMMENTS OF CALIFORNIA PAYPHONE ASSOCIATION**

California Payphone Association ("CPA") hereby submits its Reply Comments in the above-captioned proceeding, pursuant to the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("Commission") on May 8, 1992, and the Order granting an extension of time for filing comments adopted by the Chief of the Common Carrier Bureau on July 31, 1992.

In its NPRM, the Commission requested comments on the costs and benefits of Billed Party Preference ("BPP"). CPA filed its opening Comments in the referenced proceeding on July 7, 1992. In its Comments, CPA contends that the advent of unblocked "dial-around" access code calling has removed the impetus for implementing BPP and can provide the benefits of BPP without incurring its costs. CPA urges the Commission to investigate relevant cost recovery issues before determining whether to implement BPP. CPA also states if the Commission decides to implement BPP, compensation should be paid to competitive payphone providers. CPA Comments, at 2.

CPA hereby submits its Reply Comments in response to Comments filed by other parties on these issues. CPA's Reply Comments specifically focus on the need to conduct a thorough analysis of the costs and benefits of BPP, to evaluate

alternatives for recovering the costs of BPP through ratemaking, and to establish a compensation mechanism for competitive payphone providers as a precondition to implementation of BPP.

#### SUMMARY OF CPA'S POSITION

CPA agrees that end users should be able to access their carriers of choice at payphones. However, CPA has serious concerns with BPP as a means of providing such access. Over the past several years, the Commission and various State regulatory commissions have established alternative access arrangements which have been refined over time to become more effective. Now, the Commission is considering adopting yet another access scheme, BPP, which would cost almost One Billion Dollars to implement but would not become available until mid-1995. CPA believes that the costs of implementing and maintaining BPP are overwhelming and clearly outweigh any benefit. CPA strongly urges the Commission to weigh the costs and benefits of BPP carefully before adopting BPP. Should the Commission adopt BPP, a precondition to its implementation must be the establishment of a compensation mechanism and compensation amount to provide competitive payphone providers with alternative revenue sources.

#### I. THE BILLION DOLLAR COST OF BPP OUTWEIGHS BPP'S BENEFITS.

The record shows that the cost of implementing and maintaining BPP would be staggering. Presented below is a table compiling the cost estimates provided in opening Comments by the Regional Bell Operating Companies, various local exchange carriers ("LECs"), and AT&T to implement and maintain BPP in

their own service areas. The carriers' estimates of implementing BPP total close to One Billion Dollars.

<u>Company</u>	<u>Estimated Cost of Implementation</u>	<u>Reference in That Source Company's Comments</u>
Pacific Bell and Nevada Bell	\$116,000,000	Page 22
GTE	\$ 84,000,000	Page 11
US WEST	\$149,000,000	Page 6
Southern New England Telephone	\$ 33,000,000	Page 3
Bell Atlantic	\$125,500,000#	Attachment A
United Telephone	\$ 53,000,000	Pages 19,20
Ameritech	\$ 52,470,000	Page 16
Southwestern Bell	\$ 50,000,000	Page 12
BellSouth	\$ 24,936,000*	Exhibit 1
	\$120,681,000	Exhibit 1
NYNEX	\$ 82,600,000	Page 3
AT&T	\$ 68,000,000	Pages 12-14
<b>TOTAL</b>	<b>\$959,187,000</b>	

Notes:     \* - capital expenditure  
             # - includes capital and one-time expense

CPA suspects that even this tremendously high estimate may be understated. Southwestern Bell ("SWB") notes that within the last two weeks before filing their comments, SWB's BPP vendor price estimates increased 68 percent, leading them to have serious concerns about the final projected level of vendor price estimates. See SWB Comments, at 10.

CPA recognizes that BPP would provide some benefit to end users. See CPA Comments, at 6. However, the costs of implementing and maintaining BPP are overwhelming and clearly outweigh any benefit. This is especially true in view of existing access arrangements and the lengthy transition period needed to implement BPP.

CPA is not alone in claiming that the cost of implementing and maintaining BPP is exorbitant. In their

Comments, NYNEX and BellSouth contend that, on balance, the cost of BPP outweighs the benefits to the public. See NYNEX Comments, at ii; BellSouth Comments, at 3. SWB adopts only limited support for BPP, which is conditioned on adequate consideration being given to implementation scope, definition applications and other significant concerns. See SWB Comments, at 4. Even AT&T strongly cautions the Commission to carefully weigh the impacts of BPP against any incremental benefits before determining whether to require that this proposal be implemented. See AT&T Comments, at 18.

At the 1992 Summer Meeting of the National Association of Regulatory Utility Commissioners ("NARUC"), NARUC retreated from full support of BPP and instead encouraged a cost-benefit analysis of BPP prior to implementation, noting that costs were near a billion dollars. See NARUC Resolution, attached hereto as Attachment 1.

CPA also notes BellSouth's Comments regarding Bellcore's recent focus group that finds that customers are very comfortable with access code dialing. See BellSouth Comments, at 9. CPA believes this level of comfort indicates a maturation of the market and indicates that the current alternative access plan is working. Given such data and the inevitably increasing familiarity of end users with access code dialing, it seems unnecessarily troublesome to require consumers to reorient themselves yet again by ordering BPP's future implementation. In light of the foregoing, CPA believes that One Billion Dollars is too high a price to pay for what would amount to a largely superfluous access arrangement.

II. THE CLAIMED BENEFITS OF BPP ARE ALREADY AVAILABLE IN TODAY'S ACCESS ARRANGEMENTS.

CPA agrees with AT&T's statement that "[c]urrent dialing arrangements mandated by the Commission already permit customers readily to access the billed party's preferred IXC for the overwhelming majority of interLATA operator handled calls." See AT&T Comments, at 5. CPA also concurs with AT&T that "[s]ince 1987, changes in the composition of operator services traffic, developments in the intensely competitive calling card marketplace, and regulatory initiatives by the Commission have significantly increased customers' already considerable ability to control the selection of the IXC." *Id.* at 5-6. As AT&T concludes, "current access arrangements already provide most of the benefits claimed for billed party preference." AT&T Comments, at 11.

The evolution of BellSouth's position on BPP is particularly instructive. In 1987, BellSouth fully supported BPP based on its belief that service alternatives were inadequate at the time. Since that time, alternative access arrangements have been proposed and implemented to such an extent that BellSouth now feels compelled to change its position on BPP. BellSouth points out that new services such as Operator Transfer Service and Line Information Data Base that were heretofore not available now expand customers' options to use their preferred carrier. See BellSouth Comments, at 6. BellSouth now believes that the alternative access market has undergone significant changes, and that these developments, along with pending Commission matters,



can achieve the same results originally envisioned for BPP. See BellSouth Comments, at 1-2.

### III. BPP CANNOT BECOME AVAILABLE BEFORE MID-1995.

Based on a review of the RBOCs' Comments, it is clear that the Commission should expect a very lengthy transition period towards full implementation of BPP. Bell Atlantic and NYNEX state that they cannot implement BPP before mid-1995. See Bell Atlantic Comments, at 2; NYNEX Comments, at 23. SWB contends that complete BPP implementation cannot occur until 33 months from the date of an FCC Order adopting BPP. See Southwestern Bell Comments, at 17. US WEST estimates that BPP implementation would take 39 to 45 months from such an Order. See US WEST Comments, at 11. Pacific Bell believes that if the Order is released by the end of 1992, implementation could begin in 1995. See Pacific Bell Comments, at 13. Ameritech believes general availability will not occur until mid-1996. See Ameritech Comments, at 2. In addition, GTE believes a minimum of four years is required to implement BPP. See GTE Comments, at 8.

CPA believes it is imprudent to spend One Billion Dollars on an alternative access scheme that will not become available any earlier than mid-1995. This conclusion seems self-evident to CPA, especially since a reasonably working access scheme is already in place today, while BPP implementation is at least three years away.

IV. THE COMMISSION SHOULD CONDUCT A THOROUGH ANALYSIS OF THE  
VARIOUS PROPOSALS FOR BPP COST RECOVERY AND RATEMAKING  
BEFORE ADOPTING BPP.

CPA raised concerns regarding BPP cost recovery in our earlier comments. See CPA Comments, at 7-9. Other parties' comments echo CPA's alarm. For example, the originator of BPP, Bell Atlantic, concedes that "[t]he benefits of billed party preference could be lost and the costs of deploying billed party preference wasted, unless the Commission is careful in prescribing rules and cost recovery mechanisms for its implementation." See Bell Atlantic Comments, at 1. US WEST says that "[u]nless LECs can be assured of full recovery of total unseparated implementation costs, [US WEST] would oppose billed party preference." See US WEST Comments, at 19. Pacific Bell and Nevada Bell ("Pacific") note that cost recovery is critical for the LECs. See Pacific Comments, at 23. Southern New England Telephone Company ("SNET") notes that deployment is a significant expenditure and argues that it is critical for the Commission to provide the LECs adequate cost recovery mechanisms. See SNET Comments, at 1.

The record contains a continuum of rate recovery options, ranging from full cost recovery from operator service providers ("OSPs") to recovering a portion of the costs from both the OSPs and the ratepayers, to full cost recovery from the ratepayers.

NYNEX recommends that the most appropriate method for recovering the costs of BPP would be through an increase in the End User Common line ("EUCL") Charge. See NYNEX Comments, at 4. SNET proposes an alternative arrangement whereby the deployment

costs be recognized as exogenous under the Commission's price cap rules and that ongoing expenses associated with BPP be recovered in the LECs' price cap tariffs through a new rate element, paid for by all carriers. See SNET Comments, at 5. NYNEX disagrees, however, claiming that exogenous treatment of these costs through an increase in switched access rates would be inappropriate, as such an increase would put NYNEX at disadvantage in competing with other providers who are not burdened with the costs associated with BPP. See NYNEX Comments, at 19.

CPA interprets the general intention of the Commission as one wherein BPP costs would be largely recovered from OSPs. CPA respectfully submits that this cost recovery approach is not economically viable. Consider what will happen if end users are still allowed to use access codes when BPP is finally implemented, as is envisioned in the NPRM. See NPRM, 7 FCC Rcd. 3027, 3029 n.13 (1992). Access code dialing will become a lower cost feature for OSPs. Accordingly, OSPs will advertise to consumers to continue using access code dialing, which by mid-1995 will be even more familiar as a method of making long-distance calls. Low end-user demand for BPP may make it exceedingly difficult for LECs to recover the entire cost of BPP from OSPs. At that point, the Commission will have to determine an alternative source for rate recovery. BellSouth envisions this scenario when it states that if dial-around is permitted, the largely non-usage sensitive costs of BPP will be borne by a diminishing customer base, putting in jeopardy LECs' ability to deploy a commercially viable offering. See BellSouth Comments, at ii. BellSouth suggests that the Commission approve a

mechanism which provides for recovery of the substantial (and largely non-usage sensitive) costs of BPP implementation from all access customers. See BellSouth Comments, at 20. In this way, BPP costs would be spread over the entire body of ratepayers and recovered by an element comparable to the EUCL.

CPA believes the rate recovery issue is critical to the success or failure of BPP. Indeed, BPP's fate may hinge on whether ratepayers and the various State regulatory commissions perceive BPP as a service beneficial enough for ratepayers to pay an additional EUCL. CPA is not alone in its concern for these issues. SWB notes that the majority of BPP implementation costs will be allocated to state jurisdictions and that the total cost of implementing BPP may exceed the market willingness to pay. See SWB Comments, at ii.

CPA does not support or oppose any one ratemaking scheme. We merely raise the cost recovery issue as an extremely important, and as yet unresolved, question in view of the One Billion Dollar cost of implementing BPP. CPA joins SWB in urging that the Commission and market participants gain a better understanding of the views of State regulatory commissions on cost recovery before a prudent business decision can be made on BPP implementation. See SWB Comments, at 12. CPA believes that it is imperative that the total array of rate recovery issues, including a thorough analysis of the state commissions' proposals for cost recovery, be addressed before BPP implementation proceeds.

V. A COMPENSATION MECHANISM FOR COMPETITIVE PAYPHONE PROVIDERS  
MUST BE IMPLEMENTED IF BPP IS ADOPTED.

CPA emphatically agrees with the American Public Communications Council ("APCC") that BPP will cripple payphone competition, and that at a minimum, if the Commission is intent on its implementation, adequate compensation for private payphone providers should apply. See APCC Comments, at 30, 36.

Assuming, arguendo, that the Commission decides to implement BPP, to whatever extent and in whatever form, the Commission should concurrently mandate that compensation be paid to competitive payphone providers for any call to which BPP applies. The NARUC resolution on BPP recently adopted by NARUC recommends that if BPP is adopted, "there are numerous administrative details to resolve, such as . . . consideration of a mechanism for payphone operator compensation . . . ." See NARUC Resolution, Attachment 1 hereto. BellSouth also states that if BPP is deployed, "some mechanism will be required to compensate call aggregators, e.g., private payphone providers." BellSouth Comments, at 17 n.23.

CPA agrees in principle with the concept expressed by the Commission in the NPRM that the mechanism the Commission has recently ordered and is further considering for compensating competitive payphone providers for 10XXX access code dialing could also be applied in a BPP environment. NPRM, 7 FCC Rcd. at 3032, para. 28. SWB also supports this concept. SWB Comments, at 15. CPA notes, however, that compensation was sought in CC Docket No. 91-35 on either a per-call or per-minute basis. See APCC Comments, at 39. The Commission determined that

compensation could not be technically implemented in either manner, and instead established an interim monthly per-phone compensation amount which is currently the subject of pending litigation at the Commission and appellate levels. No level for appropriate compensation has been discussed in the context of this docket. Such a compensation level must be determined, on a substantial evidentiary basis, as a precondition to any decision to implement BPP.

#### VI. CONCLUSION

CPA believes it is imprudent to spend One Billion Dollars to change from a carrier selection system that works and that consumers accept to a new alternative access system that will not be in place until mid-1995, at best. If the Commission is determined to proceed toward implementation of BPP, the following steps need to be undertaken and completed before deploying a BPP system. The Commission must:

- (a) Conduct a thorough cost-benefit analysis of BPP;
- (b) evaluate appropriate cost recovery mechanisms, emphasizing a complete and in-depth review of State regulatory commissions' proposals for ratemaking;
- (c) adopt and implement an appropriate compensation methodology and compensation level for independent payphone providers; and

- (d) take such other actions as are consistent with  
CPA's foregoing Reply Comments.

Respectfully submitted,

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August 27, 1992

NARUC No. 32-1992

-5-

August 10, 1992

Utility Commissioners.

Sponsored by the Committee on Administration

Adopted July 29, 1992

**Resolution Regarding Billed Party Preference**

**WHEREAS**, The Federal Communications Commission (FCC) is considering implementing Billed Party Preference (BPP), a method for end users to access an operator service provider (OSP) that they would preselect for 0+ interLATA calls; and

**WHEREAS**, An end user would be able to preselect an OSP different from the end user's presubscribed 1+ interLATA interexchange carrier; and

**WHEREAS**, At present, end users making 0+ interLATA calls find it necessary, in order to reach their OSP of choice, either to dial access codes all the time or determine in each instance whether an access code is necessary and then dial it if it is; and

**WHEREAS**, BPP would help alleviate end user confusion over access codes, or ways to access their chosen OSP, and BPP could help lessen the instances where the OSP presubscribed to a payphone prohibits an end user from using his/her chosen OSP; and

**WHEREAS**, Even with BPP, some end users may prefer to continue to dial access codes or use proprietary telephone cards; and

**WHEREAS**, Comments have been filed by numerous parties in the pending FCC proceeding that indicate costs of BPP will be approximately a billion dollars; and

**WHEREAS**, The FCC's current Notice of Proposed Rulemaking (NPRM) has estimated the cost for BPP systems to be as low as \$50 million to as high as \$560 million and the FCC has sought further

comment on the costs of establishing BPP; and

**WHEREAS**, The National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution in July 1989 which supported BPP in concept, subject to a cost/benefit determination and, supported not allowing payphone providers to override BPP if BPP were implemented; and

**WHEREAS**, The FCC NPRM does not contain proposed rules and appears to contemplate FCC rules for all interLATA calls, including intrastate calls; and

**WHEREAS**, The FCC does not have jurisdiction over intrastate billed party preference; and

**WHEREAS**, If BPP is implemented, there are numerous administrative details to resolve, such as:

- methods for end users to presubscribe to OSPs;

- policies for billing for calls placed on foreign-used calling cards and for calls billed to an end user in a foreign country;

- the manner to route calls when a preselected OSP does not serve the geographic area in which the call is being placed; and

- consideration of a mechanism for payphone operator compensation; and

- consideration that LEC costs of interstate BPP be kept separate (as they do equal access charges) and recovered through interstate charges to OSPs; now, therefore, be it

**RESOLVED**, That while the Executive Committee of the NARUC, convened at its Summer Meeting in Seattle, Washington, supports in principle nationwide BPP with simple and uniform dialing requirements, offered by all local exchange carriers (LECs) and available for all 0+ interLATA calls, the Executive Committee of the NARUC reserves judgment on supporting BPP



NARUC No. 32-1992

-6-

August 10, 1992

implementation until there is a more concrete determination of the costs and, the specifics of implementation at this time; and be it further

**RESOLVED**, That the FCC should initiate a Further Notice of Proposed Rulemaking prior to any action on BPP that would: (1) consider how the FCC would work with the States to coordinate Federal and State policies; (2) consider the specific policy proposals contained in this resolution; and (3) would make specific rule proposals; (4) adequately address the issues of the mechanics of and costs of implementation and recovery of costs; and be it further

**RESOLVED**, That access code dialing and use of proprietary telephone cards should continue to be an available option and not be completely replaced by BPP; and be it further

**RESOLVED**, That the FCC should require payphone owners to enable their "smart" payphones to handle BPP within a reasonable time of the release of a FCC order adopting interstate BPP; and be it further

**RESOLVED**, That all reasonable measures should be taken to prevent fraud with BPP and to fairly assign related costs and responsibilities among the different jurisdictions and carriers; and be it further

**RESOLVED**, The NARUC General Counsel shall file comments and other documents supporting the policies of this resolution in the appropriate forums.

---

Sponsored by the Committee on Communications

Adopted July 29, 1992

**Resolution Opposing the Use of N11 Service Codes for Enhanced Service Providers**

**WHEREAS**, The Federal Communications Commission (FCC), on May 6, 1992,

released a Notice of Proposed Rulemaking (NPRM) inviting comment on proposed rules concerning the use of N11 codes and other abbreviated dialing arrangements; and

**WHEREAS**, The FCC tentatively concluded in the NPRM that there should be Federal rules governing the use of certain N11 service codes, that certain service codes should be available for use by Enhanced Service Providers (ESPs), and that local exchange carriers (LECs) should be permitted to select any reasonable code allocation method; and

**WHEREAS**, In the NPRM, the FCC invited comment on several subjects including recalling N11 codes from current or future uses, sale and transfer of N11 service codes, alternative dialing schemes, and the role of State commissions should have in the allocation of N11 numbers in the event demand exceeds supply; and

**WHEREAS**, N11 service codes, which are a subset of area codes, are a scarce numbering resource, with only eight (8) possible codes available, 211 through 911; and

**WHEREAS**, The use of any N11 code as a telephone number eliminates the potential use of the 8 million telephone numbers that normally subtend an area code thereby depleting this limited public resource; and

**WHEREAS**, N11 service codes may be needed for assignment as Number Plan Area (NPA) codes prior to the implementation of interchangeable NPAs in 1995; and

**WHEREAS**, The Administrator of the North American Numbering Plan (Bellcore) has recommended against the proposed use of the N11 service codes, for industry development of alternative abbreviated dialing capabilities, and for uniform use of 10-digit telephone numbers; and

**CERTIFICATE OF SERVICE**

I, Robert W. Thomas, certify that I have this day caused the foregoing **Reply Comments of California Payphone Association** to be served on the parties of interest by sending a copy by United States mail, first-class, postage prepaid, to all parties on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 27, 1992, at San Francisco,  
California.

*Robert W. Thomas*

---

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